

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TONDA ST. CLAIR,

Plaintiff,

Civil Action No.

v

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

DENNIS WICKERT and
GWYNN WICKERT,

Defendants.

THE SAM BERNSTEIN LAW FIRM, PLLC
MATTHEW M. ANEESE (P75217)
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COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, TONDA ST. CLAIR, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, by MATTHEW M. ANEESE, and for her cause of action against Defendants, DENNIS WICKERT and GWYNN WICKERT, respectfully shows unto this Honorable Court as follows:

JURISDICTIONAL averments

1. That Plaintiff, TONDA ST. CLAIR, upon information and belief, is a citizen of the United States and is domiciled in the City of Benton Harbor, County of Berrien, State of Michigan.

2. That Defendants, DENNIS WICKERT and GWYNN WICKERT, upon information and belief, are citizens of the United States and are domiciled in the City of Tiffin, County of Seneca, State of Ohio.

3. That the incident giving rise to this Complaint occurred in the County of Horry, State of South Carolina.

4. That all Plaintiffs and all Defendants are citizens of different states for purposes of diversity jurisdiction and jurisdiction is properly vested with this Honorable Court pursuant to 28 USC § 1332(a)(1).

5. That the amount in controversy in this litigation exceeds the sum of Seventy-Five Thousand (\$75,000.00) Dollars exclusive of costs, interest and attorney fees.

COUNT 1 – NEGLIGENCE AND OWNER’S LIABILITY

6. That on or about the 27th day of August, 2020, at or about the hour of 9:30 a.m., Plaintiff, TONDA ST. CLAIR, was a passenger in a Chevrolet motor vehicle, which automobile was being driven in a careful and prudent manner in a parking garage located at or near 2600 N Ocean Blvd, in the City of Myrtle Beach, County of Horry, State of South Carolina.

7. That at the aforementioned place and time, Defendant, DENNIS WICKERT, was the operator of a 2015 Chevrolet motor vehicle, which motor vehicle was being driven by Defendant, DENNIS WICKERT, in a careless, reckless and grossly negligent manner, when Defendant, DENNIS WICKERT, did fail to yield and did fail to stop in an assured clear distance, thereby striking the rear of Plaintiff’s vehicle and causing a motor vehicle accident and serious and permanent injuries to your Plaintiff, TONDA ST. CLAIR, as hereinafter alleged.

8. That it then and there, became, and was the duty of Defendant, DENNIS WICKERT, to drive said motor vehicle with due care and caution in accordance with applicable the statutes and the rules of the common law applicable to the operation of motor vehicles, but that notwithstanding said duties, your Defendant, DENNIS WICKERT, did breach and violate the same in one or more of the following particulars:

- a. Driving said motor vehicle on the highway at a speed greater than would permit him to bring it to a stop within the assured clear distance ahead before striking the rear of the Plaintiff's vehicle;
- b. Driving at an excessive and unlawful speed;
- c. Failing to drive said motor vehicle at a careful and prudent speed, not greater than was reasonable and proper, having due regard to the traffic, surface and width of the highway and other conditions then and there existing;
- d. Failing to keep a proper or any lookout for traffic when Defendant knew or should have known that such failure would endanger the life and limb of other persons along and upon said highway;
- e. Failing to yield;
- f. Disregarding a traffic control device;
- g. Failing to give audible warning of the approach or presence of said motor vehicle when reasonably necessary to insure its safe operation;
- h. Failing to have said automobile equipped with brakes adequate to control its movement and stop and hold it or in the alternative, failing to use said equipment;
- i. In failing to keep said vehicle under control at all times relevant to this matter;
- j. In otherwise negligently failing to exert that degree of care, caution, diligence and prudence as would be demonstrated by a reasonably prudent person under the same or similar circumstances and in otherwise causing the injuries and damages to your Plaintiff as hereinafter alleged; and

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- k. In other manners as yet unknown to Plaintiff but which will become known during the course of discovery.
- 9. That Defendant, GWYNN WICKERT, is vicariously liable for the negligent acts and/or omissions of Defendant, DENNIS WICKERT, by virtue of the terms of the applicable owners liability statute.
- 10. That as a direct and proximate result of the negligent acts and/or omissions on the part of Defendants, DENNIS WICKERT and GWYNN WICKERT, your Plaintiff, TONDA ST. CLAIR, was caused and will be caused in the future to suffer with severe, grievous and permanent personal injuries, disability, damages, serious impairment of bodily functions and permanent, serious disfigurement, the full extent and character of which are currently unknown but which may include but are not necessarily limited to the following:

 - a. Injuries to and about the entire upper extremities including shoulders, arms, hands and sequelae.
 - b. Injuries to and about the entire body including internal organs;
 - c. Permanent scarring and disfigurement;
 - d. Injuries to the head, entire neck, back and spine and sequelae;
 - e. Injuries to and about the entire musculo-skeletal system and sequelae;
 - f. Any and all other manners of internal and external injuries;
 - h. Pain, suffering, discomfort, disability, and extreme physical and emotional suffering;
 - i. Severe and continuing embarrassment, humiliation, anxiety, tension and mortification;
 - j. Loss of the natural enjoyments of life;
 - k. Aggravation of pre-existing conditions;

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1. Loss of wages and/or earning capacity;

m. Damages in excess of those provided under the Michigan No-Fault Act.

11. That as a direct and proximate result of the negligence and unlawful conduct of the Defendants, your Plaintiff has been required to undergo various and certain medical and operative procedures and will be required to undergo like treatment in the future.

WHEREFORE, Plaintiff, TONDA ST. CLAIR, prays that this Honorable Court award her damages against Defendants, DENNIS WICKERT and GWYNN WICKERT, in whatever amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars to which she is found to be entitled to receive, together with costs, interest and attorney fees.

JURY DEMAND

Now comes the Plaintiff, TONDA ST. CLAIR, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, and hereby respectfully demands a trial by jury in the above-titled cause of action.

Respectfully submitted,
THE SAM BERNSTEIN LAW FIRM

/s/ Matthew M. Aneese
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DATED: March 8, 2023